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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 401-1341

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on _____

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Typed or printed name _____

Application Number	Filed
09/923,923	August 7, 2001

First Named Inventor: Richard D. Martin

Art Unit	Examiner
2454	Mohammad A. Siddiqi

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the:

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☒ attorney or agent of record. Registration number 35,039
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Clark Jablon
Signature

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215-965-1293
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March 8, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

1. The Examiner's outstanding rejection of independent claims 16, 20 and 24 has an omission of one or more essential elements needed for a prima facie rejection, namely, the entire following clause of claim 16, and the corresponding clauses of claims 20 and 24:

> the code [of the inserted script] including:
> (i) a uniform resource identifier (URI) of the web page for use by the remote site in authenticating whether the URI is authorized to receive the content of the digital asset, and
> (ii) a unique identifier of the content of the digital asset,
> wherein the script includes a subscriber identifier and a content identifier, which, together, create the unique identifier of the content

In the Examiner's Final Rejection dated October 8, 2009 (Final Rejection) and the Advisory Action of February 19, 2010 (1st Advisory Action), the Examiner states that phrases (i) and (ii) are met by selected portions of Truong, and that the final "wherein…" clause[1] is met by selected portions of Shrader. However, neither of these references disclose or suggest this clause. That is, Truong does not disclose or suggest phrases (i) or (ii), and Shrader does not disclose or suggest the "wherein…" clause, and vice-versa. Accordingly, there an omission of one or more essential elements needed for a prima facie rejection, even if the references are combined as asserted by the Examiner.

(a) Phrases (i) and (ii) are not disclosed or suggested in Truong

Regarding phrases (i) and (ii), the Examiner states that they are met by column 7, lines 20-33; column 8, lines 3-16; and Appendix A of Truong. The Examiner also provides the following explanation (grammar is clarified for readability):

> A user accesses a web page by entering a uniform resource locator ("URL") which identifies a particular web page stored on an Internet server.
>
> The term "web page" is used herein to mean any computer file capable of being provided through a computer network to a client, processed, and then displayed. The web page is then communicated from the Internet server, where it is stored, to the server where the client is connected. The web page is then communicated to the client. In this manner, information can be easily disseminated throughout the world. Each web page on the World Wide Web has its own unique URL, please see background information of a web page for use by the remote site in

[1] The final "wherein…" clause was formerly recited in dependent claims, but was incorporated into the independent claims in the Amendment After Final filed on January 8, 2010 (Amendment After Final), which will be entered for purposes of appeal, as stated in the Advisory Action of March 4, 2010 (2nd Advisory Action).

> authenticating whether the URL is authorized to receive the content of the digital asset.

Nothing in the Examiner's explanation supports the presence of these clauses in Truong. The URL discussed in column 7, line 30 is not part of the embedded script code described in Truong. This text portion merely states the well-known fact that an icon can have a URL embedded therein. Furthermore, the icon-related URL does not require authentication to determine if the user is authorized to receive the web page or content associated with the icon-related URL.

Column 7, lines 20-29 of Truong merely describes how a web page receives information in HTML, and also describes that the web page can include embedded script, such as Javascript. Nothing in this text portion relates to (i) a uniform resource identifier (URI) of a web page for use by a remote site in authenticating whether the URI is authorized to receive the content of the digital asset, or (ii) a unique identifier of the content of the digital asset.

Column 8, lines 3-16 of Truong describes two types of script, namely, (i) embedded script code in the browser (logon script 41 that checks that something has been entered into logon ID and password fields before sending a request to a server), and (ii) a CGI program that executes at the server, receives form data from the browser, generates file name text for each server file stored in the directory identified by the server path input variable, and returns the file names to the client machine for display. A remote server path is not a unique identifier of content of a digital asset. A remote server path is merely a location or directory where content may reside. For example, Fig. 4 of Truong shows a remote server path that includes eight files.

Furthermore, the authentication that is performed in Truong at the server (i.e., did the user provide a valid logon ID and password?) merely checks that the user is entitled to receive the file names. This has nothing to do with using a uniform resource identifier (URI) of a web page in authenticating whether the URI is authorized to receive the content of a digital asset.

Neither of the scripts described in column 8, lines 3-16 of Truong include any code that relates to (i) a uniform resource identifier (URI) of a web page for use by a remote site in authenticating whether the URI is authorized to receive the content of the digital asset, or (ii) a unique identifier of the content of the digital asset. Nor do any other portions of Truong disclose or suggest such code.

Column 8, lines 30-38 of Truong, which reads as follows, further confirms the process described above (underlining added for emphasis):

> Assuming that the user provided a valid logon ID and password, as provided through the input text string, remote editor program 40 stores the server path input as a variable and generates a file selection form. The file selection form includes the text of the file names identifying files included in the server path defined by the server path input. Remote Internet server 15, under the control of remote editor program 40, communicates the file selection form to the client in HTML format.

Appendix A of Truong implements the processes described above, and thus does not provide the missing disclosure of these clauses.

Lastly, even if Truong could somehow arguably be interpreted as meeting clauses (i) and (ii), the "wherein…" clause that is now recited in the independent claims is completely lacking from Truong and Shrader, as discussed immediately below, and thus the outstanding rejection of independent claims 16, 20 and 24 still has an omission of one or more essential elements needed for a prima facie rejection.

(b) The clause, "wherein the script includes a subscriber identifier and a content identifier, which, together, create the unique identifier of the content" is not disclosed or suggested by Shrader

The Examiner states that elements of Fig. 4 and column 3, lines 5-52 of Shrader disclose that the script in Shrader includes a subscriber identifier and a content identifier, which, together, create a unique identifier of content. Applicants respectfully traverse this characterization of Shrader.

One preferred embodiment of the claimed "script [that] includes a subscriber identifier and a content identifier, which, together, create the unique identifier of the content" is shown in marked up versions of Figure 16 and Figure 17 of the present specification, which were provided as an Appendix to the Amendment After Final, which is incorporated herein.[2]

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[2] The published guidelines for Pre-Appeal Briefs explicitly encourage Applicants to refer to arguments already of record rather than repeating them in the request. See part 4 of the guidelines, repeated below (underlining added for emphasis)

> 4. Content of Remarks or Arguments:
> The request should specify-
> . clear errors in the examiner's rejections; or
> . the examiner's omissions of one or more essential elements needed for a prima facie rejection.
>
> For example, the request should concisely point out that a limitation is not met by a reference or the examiner failed to show proper motivation for making a modification in an obviousness rejection (35 U.S.C. 103).

Column 3, lines 5-52 of Shrader reads as follows (underlining added for emphasis):

> Referring now to FIG. 2, a screen capture for a basic JavaScript test page in accordance with a preferred embodiment of the present invention is illustrated. Screen capture 202 illustrates use of JavaScript reloading in an HTML frame. The source code for the test page follows in Listing 1:

Listing 1

```
<HTML>
<!-- jtest.html -->
<SCRIPT LANGUAGE="JavaScript">
function reloadtest ( ) {
location.reload(true) ;
}
</SCRIPT>
<TITLE>This is a reload testing page for DFS Web Secure
</TITLE>
<BODY onLoad="window.setTimeout ('reloadtest( ) ;', 5000) ;">
<font size=+1>
<p> This is a reload testing page for DFS Web Secure
<br>
<b>
<SCRIPT LANGUAGE="JavaScript">
timenow = new Date ( ) ;
document.writeln(timenow.toLocaleString( ) ) ;
document.writeln("<BR>") ;
document.writeln(location) ;
</SCRIPT>
</font>
</b>
</BODY>
</HTML>
```

> With the test page and source code shown, after 5 seconds, the browser window calls the reloadtest function, which in turn calls the JavaScript reload method, forcing reload of the document from the source rather than from a browser cache. Passing the reload method a "true" value, a value indicating that the document should be reloaded, causes the browser to refetch the frame from the Web server.
>
> The <SCRIPT> tag within the source code in Listing 1 causes the JavaScript-enabled Web browser to dynamically evaluate its contents. For the source code employed in the exemplary embodiment, the current time and the Uniform Resource Locator (URL) of the test page are displayed on the screen every time the file is loaded. Alternatively, the URL and time

Applicants are encouraged to refer to arguments already of record rather than repeating them in the request. This may be done by simply referring to a prior submission by paper number and the relevant portions thereof (e.g., see paper number 3 at pages 4 to 6). However, references such as "see the arguments of record" or "see paper number X" are not helpful and will just obfuscate the real issues for review.

> may be logged to an access tracking file. The time allows the tester to determine whether the test is still running.

This text portion of Shrader merely describes that the Javascript causes reloading of a document and dynamic evaluation of its contents. There are no elements of the Javascript that disclose a subscriber identifier or content identifier, or anything else, that, together, create a unique identifier of content. Except for the fact that Shrader constructs a web page that includes script, Shrader has nothing else whatsoever to do with the claimed invention. (Applicants are not claiming to have invented constructing a web page that includes script.)

Figure 4 of Shrader is a flowchart that illustrates, in part, the reloading process described above. Applicants have carefully reviewed all of the elements of Figure 4, and the corresponding description of Figure 4 on column 5, line 49 through column 6, line 53 of Shrader and cannot locate any elements that are functionally equivalent to "script [that] includes a subscriber identifier and a content identifier, which, together, create the unique identifier of the content." Accordingly, the combination of Truong and Shrader would still lack such features, and thus claim 16 is believed to be patentable over the combination of these references.

2. References were not improperly attacked individually

The Examiner states in the Advisory Action that Applicants have improperly attacked the references individually where the rejections are based on combinations of references. Applicants respectfully traverse this characterization of the arguments. Applicants rebutted only the presence of features asserted by the Examiner to be in the respective references. Applicants made no arguments about the combinability of the references (although Applicants reserve the right to make this argument in the future), except to highlight that the references would lack the above-highlighted claim features, even if combined, since the references individually lack the features that they were relied upon.

3. There is a clear error in the Examiner's outstanding rejection of the dependent claims.

The dependent claims are believed to be allowable because they depend upon respective allowable independent claims, and because they recite additional patentable steps.

4. None of the arguments above depend upon interpretations of prior art teachings or claim scope issues. For at least the reasons set forth above, all of the outstanding prior art rejections should be withdrawn.